

HOUSE BILL NO. 792

INTRODUCED BY D. HIMMELBERGER

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN POSTRETIREMENT BENEFIT ADJUSTMENTS FOR WHICH CERTAIN RETIREES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE TEACHERS' RETIREMENT SYSTEM ARE ELIGIBLE; AMENDING SECTIONS 19-3-1605, 19-20-719, AND 19-20-731, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Guaranteed annual benefit adjustment -- applicability -- limited**

**contract right.** (1) Subject to subsections (3) and (5), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (4) must be adjusted by an amount to be determined by the board pursuant to subsection (2).

(2) (a) Prior to December 1 of each year, the board shall assess the unfunded actuarial liability of the defined benefit retirement plan to determine the amortization period of the unfunded actuarial liability.

(b) If the amortization period is equal to or greater than 30 years, the board may not increase the permanent monthly benefit payable to benefit recipients.

(c) (i) If the amortization period is less than 30 years, the board shall determine the maximum percentage increase in the permanent monthly benefit payable to all benefit recipients that would not cause the amortization period of the unfunded liability to exceed 30 years.

(ii) If the maximum percentage increase determined under subsection (2)(c)(i) is equal to or greater than 1.5%, the board shall increase the permanent monthly benefit payable during the preceding January to each eligible recipient by 1.5%.

(iii) If the maximum percentage increase determined under subsection (2)(c)(i) is less than 1.5%, the board shall increase the permanent monthly benefit payable during the preceding January to each eligible recipient by the amount determined under subsection (2)(c)(i).

(3) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than total annualized increase provided for in subsection (1), then the recipient's benefit must be adjusted by an amount that will provide a total

1 annualized increase equal to the total annualized increase provided for in subsection (1) in the benefit paid since  
2 the preceding January.

3 (b) If a recipient's benefit payable during the preceding January has been increased by one or more  
4 adjustments not provided for in this section and the increases equal or amount to more than the total annualized  
5 increase provided for in subsection (1), then the benefit increase provided under this section must be 0%.

6 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the  
7 original payee that occurred since the preceding January, the new recipient's monthly benefit must be the amount  
8 that the contingent annuitant would have received had the contingent annuitant received a benefit during the  
9 preceding January increased by the total annualized increase provided for in subsection (1).

10 (4) Except as provided in subsection (3)(b), a benefit recipient is eligible for and must receive the annual  
11 benefit adjustment provided for in this section if the benefit's commencement date is at least 12 months prior to  
12 January 1 of the year in which the adjustment is to be made.

13 (5) This section applies to individuals who became members, as defined in 19-2-303(26)(a), of the  
14 retirement plan on or after [the effective date of this act]. The provisions of this section are subject to amendment  
15 by the legislature and employees subject to this section do not have a contract right to the specific terms and  
16 conditions specified in this section on the date the employee's choice becomes effective.

17 (6) The board shall adopt rules to administer the provisions of this section.  
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19 **NEW SECTION. Section 2. Guaranteed annual benefit adjustment -- applicability -- limited**  
20 **contract right.** (1) Subject to subsections (4) and (5), on January 1 of each year, the retirement allowance  
21 payable to each recipient who is eligible under subsection (3) must be adjusted by an amount to be determined  
22 by the board pursuant to subsection (2).

23 (2) (a) Prior to December 1 of each year, the board shall assess the unfunded actuarial liability of the  
24 retirement plan to determine the amortization period of the unfunded actuarial liability.

25 (b) If the amortization period is equal to or greater than 30 years, the board may not increase the  
26 permanent monthly benefit payable to benefit recipients.

27 (c) (i) If the amortization period is less than 30 years, the board shall determine the maximum percentage  
28 increase in the permanent monthly benefit payable to all benefit recipients that would not cause the amortization  
29 period of the unfunded liability to exceed 30 years.

30 (ii) If the maximum percentage increase determined under subsection (2)(c)(i) is equal to or greater than

1 1.5%, the board shall increase the permanent monthly benefit payable during the preceding January to each  
2 eligible recipient by 1.5%.

3 (iii) If the maximum percentage increase determined under subsection (2)(c)(i) is less than 1.5%, the  
4 board shall increase the permanent monthly benefit payable during the preceding January to each eligible  
5 recipient by the amount determined under subsection (2)(c)(i).

6 (3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided  
7 for in this section if the retiree has received at least 36 monthly retirement benefit payments prior to January 1  
8 of the year in which the adjustment is to be made.

9 (4) (a) If a recipient's benefit payable during the preceding January has been increased by one or more  
10 adjustments not provided for in this section and the adjustments amount to less than the total annualized increase  
11 provided for in subsection (1), then the recipient's benefit must be adjusted by an amount that will provide a total  
12 annualized increase equal to the total annualized increase provided for in subsection (1) in the benefit paid since  
13 the preceding January.

14 (b) If a recipient's benefit payable during the preceding January has been increased by one or more  
15 adjustments not provided for in this section and the increases equal or amount to more than the total annualized  
16 increase provided for in subsection (1), then the benefit increase provided under this section must be 0%.

17 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the  
18 original payee that occurred since the preceding January, the new recipient's monthly benefit must be the amount  
19 that the contingent annuitant would have received had the contingent annuitant received a benefit during the  
20 preceding January increased by the total annualized increase provided for in subsection (1).

21 (5) This section applies to individuals who became active members of the retirement plan on or after [the  
22 effective date of this act]. The provisions of this section are subject to amendment by the legislature and  
23 employees subject to this section do not have a contract right to the specific terms and conditions specified in  
24 this section on the date the employee's choice becomes effective.

25 (6) The board shall adopt rules to administer the provisions of this section.

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27 **Section 3.** Section 19-3-1605, MCA, is amended to read:

28 **"19-3-1605. Guaranteed annual benefit adjustment -- applicability.** (1) Subject to ~~subsection~~  
29 ~~subsections (2) and (4)~~, on January 1 of each year, the permanent monthly benefit payable during the preceding  
30 January to each recipient who is eligible under subsection (3) must be increased by 3%.

1 (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more  
 2 adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase,  
 3 then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in  
 4 the benefit paid since the preceding January.

5 (b) If a recipient's benefit payable during the preceding January has been increased by one or more  
 6 adjustments not provided for in this section and the increases amount to more than a 3% annualized increase,  
 7 then the benefit increase provided under this section must be 0%.

8 (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the  
 9 original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased  
 10 to 3% more than the amount that the contingent annuitant would have received had the contingent annuitant  
 11 received a benefit during the preceding January.

12 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the  
 13 minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least 12  
 14 months prior to January 1 of the year in which the adjustment is to be made.

15 (4) This section applies to individuals who were members, as defined in 19-2-303(26)(a), of the  
 16 retirement plan prior to [the effective date of this act].

17 ~~(4)~~(5) The board shall adopt rules to administer the provisions of this section."  
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19 **Section 4.** Section 19-20-719, MCA, is amended to read:

20 **"19-20-719. Guaranteed annual benefit adjustment -- applicability -- rulemaking.** (1) Subject to  
 21 ~~subsection~~ subsections (3) and (4), on January 1 of each year, the retirement allowance payable to each recipient  
 22 who is eligible under subsection (2) must be increased by 1.5%.

23 (2) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided  
 24 for in this section if the retiree has received at least 36 monthly retirement benefit payments prior to January 1  
 25 of the year in which the adjustment is to be made.

26 (3) ~~On January 1, 2002, and~~ January 1 of each year following the system's biennial valuation, the board  
 27 may increase the annual benefit adjustment provided in subsection (1) until a maximum of 3% is guaranteed if:

28 (a) the period required to amortize the system's actuarial unfunded liability, as determined by the most  
 29 recent biennial valuation, adjusted for any benefit enhancement enacted by the legislature since the most recent  
 30 biennial valuation, is less than 25 years;

1 (b) sufficient funds are available to increase the guaranteed annual benefit adjustment by at least 0.1%;  
2 and

3 (c) the increase granted by the board would not cause the amortization period, as of the most recent  
4 valuation, to exceed 25 years.

5 (4) This section applies to individuals who were active members, inactive members, retirees, or  
6 beneficiaries under this chapter prior to [the effective date of this act].

7 ~~(4)~~(5) The board shall adopt rules to administer the provisions of this section."  
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9 **Section 5.** Section 19-20-731, MCA, is amended to read:

10 **"19-20-731. Postretirement employment limitations -- cancellation and recalculation of benefits.**

11 (1) Except as otherwise provided in this section, a retired member may be employed part-time by a school district,  
12 state agency, or unit of the university system in a position eligible to participate in the retirement system and may  
13 earn, without an adjustment of retirement benefits, an amount not to exceed the greater of:

14 (a) one-third of the sum of the member's average final compensation; or

15 (b) one-third of the median of the average final compensation for members retired during the preceding  
16 fiscal year as determined by the retirement board.

17 (2) On July 1 of each year following the member's retirement effective date, the maximum that a retired  
18 member may earn under subsection (1)(a) is increased by an amount equal to the consumer price index increase  
19 for urban wage earners compiled by the bureau of labor statistics of the United States department of labor or its  
20 successor agency in the preceding calendar year.

21 (3) Except as provided in subsection (5), the retirement benefit of a retired member:

22 (a) employed in a part-time position or earning more than allowed by subsections (1) and (2) must be  
23 temporarily reduced by \$1 for each dollar earned over the maximum allowed. Monthly benefits must be reduced  
24 beginning as soon as practical after the excess earnings have been reported to the retirement system by the  
25 employer. The retirement benefit must be canceled if the retired member's earnings over the maximum allowed  
26 exceed the gross monthly benefit amount.

27 (b) employed in a full-time position must be canceled beginning in the month in which the retired member  
28 returns to full-time employment.

29 (4) Upon termination and retirement subsequent to a cancellation of benefits pursuant to subsection (3),  
30 the retirement benefit of a member:

1 (a) who was reemployed and earned less than 1 year of creditable service must be reinstated beginning  
2 either the first of the month following termination or on July 1 following the date on which the retired member was  
3 reemployed, whichever is later. The reinstated retirement benefit is the amount and option that the retired member  
4 would have been entitled to receive had the retired member not returned to employment.

5 (b) who was reemployed and earned at least 1 year of creditable service must be recalculated under  
6 19-20-804 if the member has attained normal retirement age or under 19-20-802 if the member has not attained  
7 normal retirement age but is eligible for early retirement. The recalculated benefit is based on the service credit  
8 accumulated at the time of the member's previous retirement, plus any service credit accumulated subsequent  
9 to reemployment. The recalculated normal form benefit amount must be increased by the amount of any benefit  
10 enhancement received pursuant to 19-20-719 or [section 2], as applicable, that the retired member was receiving  
11 when the member's benefits were canceled.

12 (5) If an early-retired member under 19-20-802 is reemployed with the same employer within 30 days  
13 from the member's effective date of retirement or if the early-retired member is guaranteed reemployment with  
14 the same employer, the member must be considered to have continued in the status of an active member and  
15 not to have separated from service. Any retirement allowance payments received by the member must be repaid  
16 to the system, together with interest, at the actuarially assumed rate, and the retirement allowance must be  
17 canceled."

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19 NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an  
20 integral part of Title 19, chapter 3, part 16, and the provisions of Title 19, chapter 3, part 16, apply to [section 1].

21 (2) [Section 2] is intended to be codified as an integral part of Title 19, chapter 20, part 7, and the  
22 provisions of Title 19, chapter 20, part 7, apply to [section 2].

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24 NEW SECTION. Section 7. Saving clause. [This act] does not affect rights and duties that matured,  
25 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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27 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2007.

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